

JUDGE FORREST

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
JACQUELINE GARDNER,

Plaintiff,

-against-

CHASE RECEIVABLES,

Defendant(s),
-----X

Civil Action No.:

JUL 11 2013

U.S.D.C. S.D. N.Y.
CASHIERS

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff JACQUELINE GARDNER ("Plaintiff"), by and through her attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant CHASE RECEIVABLES, (hereinafter referred to as "Defendant(s)"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff JACQUELINE GARDNER is a resident of the State of New York, residing at 112 W 144th Street, Apartment 3-D, New York, New York 10030.

3. Defendant CHASE RECEIVABLES, is a New York corporation with an address at 22 Saw Mill River Road, Hawthorne, New York 10532.

4. Plaintiff is a "consumer" as defined by the FDCPA, 15 USC § 1692 a (3).

5. The Defendant is a "debt collector" as the phrase is defined and used in the

FDCPA under 15 USC §1692a (6).

JURISDICTION AND VENUE

6. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

8. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "7" herein with the same force and effect as if the same were set forth at length herein.

9. Upon information and belief, Defendant, on behalf of a third-party, began efforts to collect an alleged consumer debt from the Plaintiff.

10. On information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communications with the Plaintiff on February, 22nd, 2012 by placing a telephone call to number 212 281 6944 and leaving a voice mail message.

11. The Defendant's voice message stated that the Defendants were debt collectors attempting to collect a debt from Plaintiff.

12. The telephone number where Defendant left their voice message belongs to a Mr. Arthur Johnson and callers to his telephone hear his recorded greeting of "This is Arthur, we're not home right now, please call us back. Thanks."

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

13. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "12" herein with the same force and effect as if the same were set forth at length herein.

14. 15 USC §1692c(b) prohibits a debt collector from disclosing to a third party without permission from the consumer that the consumer is being contacted by a debt collector concerning a debt.

15. The Defendant violated 15 USC §1692c(b) by communicating to the Plaintiff's acquaintance, Arthur Johnson, that the Plaintiff was being contacted by a debt collector about a debt.

16. As a result of Defendant's neglect in leaving a message on a voice mail which is accessible to third parties, Plaintiff suffered extreme embarrassment and distress and according to 15 USC §1692k(a)(1), Defendant is liable to Plaintiff for damages sustained as a result of their failure to comply with §1692 et seq. of Title 15 of the United States Code (the FDCPA).

DEMAND FOR TRIAL BY JURY

17. Plaintiff JACQUELINE GARDNER hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF


WHEREFORE, Plaintiff JACQUELINE GARDNER demands judgment from the Defendants as follows:

A. For actual damages provided and pursuant to 15 USC §1692k (a) (1);

- B. For statutory damages provided and pursuant to 15 USC §1692(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
July 10, 2013

Respectfully submitted,

By: 
M. Harvey Rephen, (MR3384), Esq.
M. HARVEY REPHEN & ASSOCIATES, P.C.
708 Third Avenue, 6th Floor
New York, New York 10017
Phone: (212) 796-0930
Facsimile: (212) 330-7582
Attorney for the Plaintiff JACQUELINE GARDNER

To: Chase Receivables
22 Saw Mill River Road
Hawthorne, New York 10532

(Via Prescribed Service)

Clerk,
United States District Court, Southern of New York
(For Filing Purposes)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO.:

JACQUELINE GARDNER,

Plaintiff,

-against-

CHASE RECEIVABLES,

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COMPLAINT

*M. HARVEY REPHEN & ASSOCIATES, P.C.
708 Third Avenue, 6th Floor
New York, New York 10017
Phone: (212) 796-0930
Facsimile: (212) 330-7582*

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

JACQUELINE GARDNER

Plaintiff

v.

CHASE RECEIVABLES

Defendant

13 CIV 4801

Civil Action No.

JUDGE FORREST

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* CHASE RECEIVABLES
22 SAW MILL RIVER ROAD
HAWTHORNE, NEW YORK 10532

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

M. HARVEY REPHEN & ASSOCIATES, P.C.
708 THIRD AVENUE, 6TH FLOOR
NEW YORK, NEW YORK 10017

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

MUBY I. KLANICK

CLERK OF COURT

JUL 11 2013

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

- ☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or
- ☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there.
 on *(date)* _____, and mailed a copy to the individual's last known address; or
- ☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or
- ☐ I returned the summons unexecuted because _____; or
- ☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: